

1 Fred W. Schwinn (SBN 225575)
2 CONSUMER LAW CENTER, INC.
3 12 South First Street, Suite 1014
4 San Jose, California 95113-2418
5 Telephone Number: (408) 294-6160
6 Facsimile Number: (408) 294-6190
7 Email Address: fred.schwinn@sjconsumerlaw.com

8 Attorney for Plaintiff
9 SHAWN O'CONNOR

ORIGINAL FILED

FEB 12 2008

Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

ADR

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 SHAWN O'CONNOR,

14 Plaintiff,

15 v.

16 LAW OFFICE OF HARRIS & ZIDE, a
17 general partnership, and FLINT COREY
18 ZIDE, individually and in his official
19 capacity,

20 Defendants.

C 08 - 00907

COMPLAINT

DEMAND FOR JURY TRIAL

15 United States Code § 1692 *et seq.*

JCS

21 Plaintiff, SHAWN O'CONNOR (hereinafter "Plaintiff"), based on information and
22 belief and investigation of counsel, except for those allegations which pertain to the named Plaintiff
23 or his attorneys (which are alleged on personal knowledge), hereby makes the following allegations:

24 **I. INTRODUCTION**

25 1. This is an action for statutory damages, attorney fees and costs brought by an
26 individual consumer for Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C.
27 § 1692, *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive,
28 deceptive and unfair practices.

2. According to 15 U.S.C. § 1692:

a. There is abundant evidence of the use of abusive, deceptive, and unfair debt
collection practices by many debt collectors. Abusive debt collection practices
contribute to the number of personal bankruptcies, to marital instability, to the loss

1 of jobs, and to invasions of individual privacy.

2 b. Existing laws and procedures for redressing these injuries are inadequate to protect
3 consumers.

4 c. Means other than misrepresentation or other abusive debt collection practices are
5 available for the effective collection of debts.

6 d. Abusive debt collection practices are carried on to a substantial extent in interstate
7 commerce and through means and instrumentalities of such commerce. Even where
8 abusive debt collection practices are purely intrastate in character, they nevertheless
9 directly affect interstate commerce.

10 e. It is the purpose of this title to eliminate abusive debt collection practices by debt
11 collectors, to insure that those debt collectors who refrain from using abusive debt
12 collection practices are not competitively disadvantaged, and to promote consistent
13 State action to protect consumers against debt collection abuses.

14 **II. JURISDICTION**

15 3. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. §
16 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

17 4. This action arises out of Defendants' violations of the Fair Debt Collection
18 Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

19 **III. VENUE**

20 5. Venue in this judicial district is proper pursuant to 28 U.S.C. § 1391(b), in
21 that a substantial part of the events or omissions giving rise to the claim occurred in this judicial
22 district. Venue is also proper in this judicial district pursuant to 15 U.S.C. § 1692k(d), in that the
23 Defendants transact business in this judicial district and the violations of the FDCPA complained
24 of occurred in this judicial district.

25 **IV. INTRADISTRICT ASSIGNMENT**

26 6. This lawsuit should be assigned to the San Francisco Division of this Court
27 because a substantial part of the events or omissions which gave rise to this lawsuit occurred in San
28 Francisco County.

V. PARTIES

7. Plaintiff, SHAWN O'CONNOR (hereinafter "Plaintiff" or "O'CONNOR"), is a natural person residing in San Francisco County, California. Plaintiff is a "consumer" within the meaning of 15 U.S.C. § 1692a(3).

8. Plaintiff is informed and believes, and thereon alleges that Defendant, LAW OFFICES OF HARRIS & ZIDE (hereinafter "HARRIS & ZIDE"), is or was at all relevant times, a general partnership engaged in the business of collecting debts in this state with its principal place of business located at: 1445 Huntington Drive, Suite 300, South Pasadena, Los Angeles County, California 91030-4553. HARRIS & ZIDE may be served as follows: Law Offices of Harris & Zide, c/o Flint Corey Zide, General Partner, 1445 Huntington Drive, Suite 300, South Pasadena, Los Angeles County, California 91030-4553. The principal business of HARRIS & ZIDE is the collection of debts using the mails and telephone, and HARRIS & ZIDE regularly attempts to collect debts alleged to be due another. HARRIS & ZIDE is a "debt collector" within the meaning of 15 U.S.C. § 1692a(6).

9. Defendant, FLINT COREY ZIDE (hereinafter "ZIDE"), is a natural person, a licensed attorney in the state of California, and is or was an employee, agent, and/or general partner of HARRIS & ZIDE at all relevant times. ZIDE may be served at his current business address at: Flint Corey Zide, Law Offices of Harris & Zide, 1445 Huntington Drive, Suite 300, South Pasadena, Los Angeles County, California 91030-4553. ZIDE is a "debt collector" within the meaning of 15 U.S.C. § 1692a(6). Plaintiff is informed and believes, and thereon alleges that ZIDE is liable for the acts of HARRIS & ZIDE because he is a general partner of HARRIS & ZIDE, he sets and approves HARRIS & ZIDE collection policies, practices, procedures, and he directed the unlawful activities described herein.

10. At all times herein mentioned, each of the Defendants was an officer, director, agent, servant, employee and/or joint venturer of his co-defendants, and each of them, and at all said times, each Defendant was acting in the full course and scope of said office, directorship, agency, service, employment and/or joint venture. Any reference hereafter to "Defendants" without further qualification is meant by Plaintiff to refer to each Defendant, and all of them, named above.

VI. FACTUAL ALLEGATIONS

11. On a date or dates unknown to Plaintiff, Plaintiff incurred a financial obligation, namely a consumer credit account issued by Citibank (South Dakota), N.A. (hereinafter “the debt”). The debt was incurred primarily for personal, family or household purposes and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5).

12. Sometime thereafter on a date unknown to Plaintiff, the debt was consigned, placed or otherwise transferred to Defendants for collection from Plaintiff.

13. Thereafter, Defendants filed a lawsuit against O’CONNOR to collect the debt. Said lawsuit was filed in the Superior Court of the State of California, County of Santa Clara and assigned Case No. 1-05-CV-038648 (hereinafter “the collection lawsuit”).

14. Thereafter, O’CONNOR retained the legal services of Fred W. Schwinn of the Consumer Law Center, Inc., to represent him in the collection lawsuit.

15. Thereafter, on or about July 8, 2005, Fred W. Schwinn notified ZIDE and his law partners that O’CONNOR was represented by Mr. Schwinn in connection with the debt owed to Citibank (South Dakota), N.A.

16. Thereafter, on or about March 20, 2006, the Honorable Gregory H. Ward presided over a bench trial wherein O’CONNOR was found to owe Citibank (South Dakota), N.A., the sum of \$7,264.97 in principal, plus costs.

17. A true and accurate copy of the Judgment and Order for Entry After Trial by Court is attached hereto, marked Exhibit “1,” and by this reference is incorporated herein.

18. On or about March 23, 2006, Defendant ZIDE, filed a Memorandum of Costs in the state court proceeding which stated the costs in the collection lawsuit to be \$460.25.

19. A true and accurate copy of the Memorandum of Costs is attached hereto, marked Exhibit “2,” and by this reference is incorporated herein.

20. Accordingly, the total judgment against Plaintiff in favor of Citibank (South Dakota), N.A., is \$7,725.22, plus post-judgment interest at the rate of 10% per annum pursuant to Cal. Code of Civil Procedure § 685.010.

21. Thereafter, Defendants sent a collection letter dated June 8, 2007 (Exhibit

1 “3”) directly to Plaintiff which is a “communication” in an attempt to collect a debt as that term is
2 defined by 15 U.S.C. § 1692a(2).

3 22. A true and accurate copy of the collection letter dated June 8, 2007, from
4 Defendants to Plaintiff is attached hereto, marked Exhibit “3,” and by this reference is incorporated
5 herein.

6 23. The collection letter dated June 8, 2007 (Exhibit “3”) states that Plaintiff owed
7 “\$10,774.48 including costs, interest and attorney fees.”

8 24. Plaintiff is informed and believes, and thereon alleges that Defendants
9 misrepresented the character, amount or legal status of the debt in the collection letter dated June
10 8, 2007 (Exhibit “3”).

11 25. Plaintiff is informed and believes, and thereon alleges that Defendants
12 attempted to collect interest, fees or other charges from Plaintiff that were not expressly authorized
13 by the judgment creating the debt or otherwise permitted by law in the collection letter dated June
14 8, 2007 (Exhibit “3”).

15 26. The collection letter dated June 8, 2007 (Exhibit “3”) displays a signature
16 believed to be that of Defendant, ZIDE.

17 27. The collection letter dated June 8, 2007 (Exhibit “3”) represented or implied
18 that Plaintiff’s account had been reviewed by Defendant, ZIDE, before the collection letter (Exhibit
19 “3”) was sent to Plaintiff.

20 28. Plaintiff is informed and believes, and thereon alleges that Defendant, ZIDE,
21 did not conduct a professional review Plaintiff’s account before sending the collection letter dated
22 June 8, 2007 (Exhibit “3”) to Plaintiff. See *Clomon v. Jackson*, 988 F.2d 1314 (2nd Cir. 1993) and
23 *Avila v. Rubin*, 84 F.3d 222, 228-29 (7th Cir. 1996).

24 29. Plaintiff is informed and believes, and thereon alleges that the collection letter
25 dated June 8, 2007 (Exhibit “3”) misrepresented the role and involvement of legal counsel.

26 30. Thereafter, Defendants sent a collection letter dated July 10, 2007 (Exhibit
27 “4”) directly to Plaintiff which is a “communication” in an attempt to collect a debt as that term is
28 defined by 15 U.S.C. § 1692a(2).

31. A true and accurate copy of the collection letter dated July 10, 2007, from Defendants to Plaintiff is attached hereto, marked Exhibit “4,” and by this reference is incorporated herein.

32. The collection letter dated July 10, 2007 (Exhibit “4”) states that Plaintiff owed “\$10,774.48.”

33. Plaintiff is informed and believes, and thereon alleges that Defendants misrepresented the character, amount or legal status of the debt in the collection letter dated July 10, 2007 (Exhibit “4”).

34. Plaintiff is informed and believes, and thereon alleges that Defendants attempted to collect interest, fees or other charges from Plaintiff that were not expressly authorized by the judgment creating the debt or otherwise permitted by law in the collection letter dated July 10, 2007 (Exhibit “4”).

35. The collection letter dated July 10, 2007 (Exhibit “4”) displays a signature believed to be that of Defendant, ZIDE.

36. The collection letter dated July 10, 2007 (Exhibit “4”) represented or implied that Plaintiff’s account had been reviewed by Defendant, ZIDE, before the collection letter (Exhibit “4”) was sent to Plaintiff.

37. Plaintiff is informed and believes, and thereon alleges that Defendant, ZIDE, did not conduct a professional review Plaintiff’s account before sending the collection letter dated July 10, 2007 (Exhibit “4”) to Plaintiff. See *Clomon v. Jackson*, 988 F.2d 1314 (2nd Cir. 1993) and *Avila v. Rubin*, 84 F.3d 222, 228-29 (7th Cir. 1996).

38. Plaintiff is informed and believes, and thereon alleges that the collection letter dated July 10, 2007 (Exhibit “4”) misrepresented the role and involvement of legal counsel.

VII. CLAIMS

FAIR DEBT COLLECTION PRACTICES ACT

39. Plaintiff brings the first claim for relief against Defendants under the Federal Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*

40. Plaintiff repeats, realleges, and incorporates by reference paragraphs 1

1 through 38 above.

2 41. Plaintiff is a “consumer” as that term is defined by the FDCPA, 15 U.S.C. §
3 1692a(3).

4 42. Defendant, HARRIS & ZIDE, is a “debt collector” as that term is defined by
5 the FDCPA, 15 U.S.C. § 1692a(6).

6 43. Defendant, ZIDE, is a “debt collector” as that term is defined by the FDCPA,
7 15 U.S.C. § 1692a(6).

8 44. The financial obligation owed to Citibank (South Dakota), N.A., by Plaintiff
9 is a “debt” as that term is defined by the FDCPA, 15 U.S.C. § 1692a(5).

10 45. Defendants’ collection letters described above violate the FDCPA. The
11 violations include, but are not limited to, the following:

- 12 a. Defendants misrepresented the character, amount or legal status of
13 the debt, in violation of 15 U.S.C. § 1692e(2)(A);
- 14 b. Defendants misrepresented the compensation which may be lawfully
15 received by Defendants for the collection of the debt, in violation of
16 15 U.S.C. § 1692e(2)(B);
- 17 c. Defendants falsely represented or implied that an attorney ZIDE had
18 reviewed Plaintiff’s account when attorney ZIDE had not done so, in
19 violation of 15 U.S.C. §§ 1692e(3) and 1692e(10);
- 20 d. Defendants falsely represented the role and involvement of legal
21 counsel, in violation of 15 U.S.C. §§ 1692e(3) and 1692e(10); and
- 22 e. Defendants attempted to collect interest, fees or other charges from
23 Plaintiff that are not expressly authorized by the judgment creating
24 the debt or otherwise permitted by law, in violation of 15 U.S.C. §
25 1692f(1).

26 46. Defendants have further violated the FDCPA in the following respects:

- 27 a. Defendants continued to communicate directly with Plaintiff
28 regarding the collection of the debt after they knew that Plaintiff was

represented by an attorney with respect to the debt, in violation of 15 U.S.C. § 1692c(a)(2).

47. Defendants' acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the debt.

48. As a result of Defendants' violations of the FDCPA, Plaintiff is entitled to an award of statutory damages, costs and reasonable attorneys fees, pursuant to 15 U.S.C. § 1692k.

VIII. REQUEST FOR RELIEF

Plaintiff requests that this Court:

- a. Assume jurisdiction in this proceeding;
- b. Declare that Defendants' collection letters attached hereto as Exhibits "3" and "4" violate the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692e(2)(A), 1692e(2)(B), 1692e(3), 1692e(10) and 1692f(1);
- c. Declare that Defendants violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692c(a)(2);
- d. Award the Plaintiff statutory damages in an amount not exceeding \$1,000 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- e. Award the Plaintiff the costs of this action and reasonable attorneys fees pursuant to 15 U.S.C. § 1692k(a)(3); and
- f. Award the Plaintiff such other and further relief as may be just and proper.

CONSUMER LAW CENTER, INC.

By: /s/ Fred W. Schwinn
Fred W. Schwinn, Esq.
Attorney for Plaintiff
SHAWN O'CONNOR

CERTIFICATION PURSUANT TO CIVIL L.R. 3-16

Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

/s/ Fred W. Schwinn
Fred W. Schwinn, Esq.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, SHAWN O'CONNOR, hereby demands a trial by jury of all triable issues of fact in the above-captioned case.

/s/ Fred W. Schwinn
Fred W. Schwinn, Esq.

UCS

FLINT C. ZIDE
 LAW OFFICES OF HARRIS & ZIDE
 1445 Huntington Drive, Suite 300
 South Pasadena, CA 91030
 (626) 799-8444
 Attorney for Plaintiff
 State Bar Number 160369

FILED

2008 APR 26 P 3:21

KIRK T.

DE:

Delia Bellot

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
 SANTA CLARA BRANCH - LIMITED CIVIL

CITIBANK (SOUTH DAKOTA), N.A.)	NO. 105CV038648
)	
Plaintiff)	JUDGMENT AND ORDER FOR
vs)	ENTRY AFTER TRIAL BY
)	COURT
SHAWN OCONNOR, ET. AL.)	
)	DATE: 3/20/06
)	TIME: 8:46 A.M.
Defendant(s))	PLACE: Dept. 9
)	

This cause came on regularly for trial on
 March 20, 2006, in Department 9 of the above-entitled court, the
 Honorable Judge Gregory Ward presiding. Plaintiff appeared by its
 attorney Flint C. Zide and defendant Shawn Oconnor appeared by his
 attorney Fred W. Schwinn.

After full consideration of the evidence and points and
 authorities submitted, it appears and the Court finds that plaintiff
 has shown by admissible evidence and reasonable inferences therefrom
 that plaintiff is entitled to judgment.

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Judgment After Trial
 by Court



1 IT IS ORDERED THAT the said judgment is granted and
2 judgment shall be entered forthwith as requested in favor of
3 plaintiff CITIBANK (SOUTH DAKOTA), N.A. and against defendant SHAWN
4 OCONNOR.

5 IT IS ORDERED, ADJUDGED AND DECREED that:

6 Plaintiff CITIBANK (SOUTH DAKOTA), N.A. shall recover from
7 Defendant SHAWN OCONNOR the sum of \$7,264.97 in principal, plus
8 costs.

9
10 Dated: 4-21-06

11  GREGORY H. WARD
12 JUDGE OF THE SUPERIOR COURT
13

14 Agreed as to form and content. Dated:

15
16 Fred W. Schwinn
17 Attorney for Defendant
18
19
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26
27
28

Judgment After Trial
by Court

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____ and know its contents.

☐ CHECK APPLICABLE PARAGRAPHS

☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner _____ ☐ a _____ of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for _____ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on _____, at _____, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of LOS ANGELES, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 1445 HUNTINGTON DR., STE 300, S. PASADENA, CA 91030

On, 4/20/06 I served the foregoing document described as DECLARATION IN SUPPORT OF FILING JUDGMENT; JUDGMENT AFTER TRIAL BY COURT

_____ on ALL INTERESTED PARTIES in this action

☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

☒ by placing ☒ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows:

FRED W. SCHWINN, ESQ.
12 SOUTH FIRST ST., SUITE 416
SAN JOSE, CA 95113

☒ BY MAIL

☐ *I deposited such envelope in the mail at _____, California.

The envelope was mailed with postage thereon fully prepaid.

☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at SOUTH PASADENA California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on 4/20/06, at SOUTH PASADENA, California.

☐ ***(BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

Executed on _____, at _____, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

FLINT C. ZIDE

Type or Print Name

Signature

*(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

*(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____ and know its contents.

☐ CHECK APPLICABLE PARAGRAPHS

☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner _____ ☐ a _____ of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for _____ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on _____, at _____, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of LOS ANGELES, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 1445 HUNTINGTON DR., STE 300, S. PASADENA, CA 91030

On, 4/20/06 I served the foregoing document described as DECLARATION IN SUPPORT OF FILING JUDGMENT; JUDGMENT AFTER TRIAL BY COURT

_____ on ALL INTERESTED PARTIES in this action

☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

☒ by placing ☒ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows:

FRED W. SCHWINN, ESQ.
12 SOUTH FIRST ST., SUITE 416
SAN JOSE, CA 95113

☒ BY MAIL

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☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at SOUTH PASADENA California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on 4/20/06, at SOUTH PASADENA, California.

☐ *(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on _____, at _____, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

FLINT C. ZIDE

Type or Print Name

Signature

*(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

**(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): FLINT C. ZIDE, STATE BAR #160369 Law Office of Harris & Zide 1445 Huntington Dr. Suite 300 South Pasadena, Ca 91030 TELEPHONE NO.: 626-799-8444 FAX NO.: 626-799-8419 ATTORNEY FOR (Name): CITIBANK (SOUTH DAKOTA) N.A.		FOR COURT USE ONLY FILED UCS 2006 MAR 23 AM 10:50 CHIEF EXEC. OFFICER/CLERK SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA CLARA DEPUTY J. DeHortega
INSERT NAME OF COURT, JUDICIAL DISTRICT, AND BRANCH COURT, IF ANY: SUPERIOR COURT OF CALIFORNIA, CO. OF SANTA CLARA		
SANTA CLARA BRANCH - LIMITED CIVIL CASE		
PLAINTIFF: CITIBANK (SOUTH DAKOTA) N.A. DEFENDANT: SHAWN OCONNOR		
MEMORANDUM OF COSTS (SUMMARY)		CASE NUMBER: 105CV038648



The following costs are requested:

	TOTALS
1. Filing and motion fees	1. \$ <u>302.50</u>
2. Jury fees	2. \$ <u> </u>
3. Jury food and lodging	3. \$ <u> </u>
4. Deposition costs	4. \$ <u> </u>
5. Service of process	5. \$ <u>157.75</u>
6. Attachment expenses	6. \$ <u> </u>
7. Surety bond premiums	7. \$ <u> </u>
8. Witness fees	8. \$ <u> </u>
9. Court-ordered transcripts	9. \$ <u> </u>
10. Attorney fees (enter here if contractual or statutory fees are fixed without necessity of a court determination; otherwise a noticed motion is required)	10. \$ <u> </u>
11. Models, blowups, and photocopies of exhibits	11. \$ <u> </u>
12. Court reporter fees as established by statute	12. \$ <u> </u>
13. Other	13. \$ <u> </u>
TOTAL COSTS	\$ <u>460.25</u>

I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

Date: 3/21/06

FLINT, C. ZIDE
(TYPE OR PRINT NAME)

A handwritten signature in black ink, appearing to be "Flint C. Zide".

(SIGNATURE)

(Proof of service on reverse)

SHORT TITLE: CITIBANK v. OCONNOR

CASE NUMBER:

105CV038648

PROOF OF ☒ MAILING ☐ PERSONAL DELIVERY

1. At the time of mailing or personal delivery, I was at least 18 years of age and **not a party** to this legal action.
2. My residence or business address is (specify): 1445 HUNTINGTON DR., STE 300, SOUTH PASADENA, CA 91030
3. I mailed or personally delivered a copy of the *Memorandum of Costs (Summary)* as follows (complete either a or b):
 - a. ☒ **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope AND
 - (a) ☐ **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - (b) ☒ **placed** the envelope for collection and mailing on the date and at the place shown in items below following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served: FRED W. SCHWINN
 - (b) Address on envelope: CONSUMER LAW CENTER
12 SOUTH FIRST ST., SUITE 416
SAN JOSE, CA 95113
 - (c) Date of mailing: 3/21/06
 - (d) Place of mailing (city and state): SOUTH PASADENA
 - b. ☐ **Personal delivery.** I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 3/21/06

FLINT C. ZIDE

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

SHORT TITLE: CITIBANK v. OCONNOR

CASE NUMBER:

105CV038648

MEMORANDUM OF COSTS (WORKSHEET)

1. Filing and motion fees

Paper filedFiling fee

a. SUMMONS AND COMPLAINT \$ 302.50

b. _____ \$ _____

c. _____ \$ _____

d. _____ \$ _____

e. _____ \$ _____

f. _____ \$ _____

g. ☐ Information about additional filing and motion fees is contained in Attachment 1g.TOTAL 1. \$ 302.50

2. Jury fees

DateFee & mileage

a. _____ \$ _____

b. _____ \$ _____

c. _____ \$ _____

d. _____ \$ _____

e. ☐ Information about additional jury fees is contained in Attachment 2e.TOTAL 2. \$

3. Juror food: \$ _____ and lodging: \$ _____

TOTAL 3. \$

4. Deposition costs

Name of
deponentTakingTranscribingTravelVideo-
tapingSubtotals

a. _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

b. _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

c. _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

d. _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

e. ☐ Information about additional deposition costs is contained in Attachment 4e.TOTAL 4. \$

(Continued on reverse)

Page 1 of 4

SHORT TITLE: CITIBANK v. OCONNOR

CASE NUMBER: *

105CV038648

5. Service of process

	<u>Name of person served</u>	<u>Public officer</u>	<u>Registered process</u>	<u>Publication</u>	<u>Other (specify)</u>
a.	DEFENDANT	\$	\$ 157.75	\$	\$
b.		\$	\$	\$	\$
c.		\$	\$	\$	\$

d. ☐ Information about additional costs for service of process is contained in Attachment 5d.

TOTAL 5. \$ 157.75

6. Attachment expenses (specify):

6. \$

7. Surety bond premiums (itemize bonds and amounts):

7. \$

8. a. Ordinary witness fees

	<u>Name of witness</u>	<u>Daily fee</u>	<u>Mileage</u>	<u>Total</u>
(1)		_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ _____
(2)		_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ _____
(3)		_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ _____
(4)		_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ _____
(5)		_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ _____

(6) ☐ Information about additional ordinary witness fees is contained in Attachment 8a(6).

SUBTOTAL 8a. \$

(Continued on next page)

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SHORT TITLE: CITIBANK v. OCONNOR

CASE NUMBER:

105CV038648

MEMORANDUM OF COSTS (WORKSHEET) (Continued)**8. b. Expert fees (per Code of Civil Procedure section 998)**Name of witnessFee

(1) _____ hours at \$ _____ /hr \$ _____

(2) _____ hours at \$ _____ /hr \$ _____

(3) _____ hours at \$ _____ /hr \$ _____

(4) _____ hours at \$ _____ /hr \$ _____

(5) ☐ Information about additional expert witness fees is contained in Attachment 8b(5).

SUBTOTAL 8b. \$

c. Court-ordered expert feesName of witnessFee

(1) _____ hours at \$ _____ /hr \$ _____

(2) _____ hours at \$ _____ /hr \$ _____

(3) ☐ Information about additional court-ordered expert witness fees is contained in Attachment 8c(3).

SUBTOTAL 8c. \$

TOTAL (8a, 8b, & 8c) 8. \$

9. **Court-ordered transcripts (specify):** 9. \$10. **Attorney fees (enter here if contractual or statutory fees are fixed without necessity of a court determination; otherwise a noticed motion is required):** 10. \$11. **Models, blowups, and photocopies of exhibits (specify):** 11. \$**12. Court reporter fees (as established by statute)**

a. (Name of reporter):

Fees: \$

b. (Name of reporter):

Fees: \$

c. ☐ Information about additional court reporter fees is contained in Attachment 12c.

TOTAL 12. \$

13. ☐ **Other (specify):** 13. \$**TOTAL COSTS** \$ 460.25

(Additional information may be supplied on the reverse)

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SHORT TITLE: CITIBANK v. OCONNOR

CASE NUMBER:
105CV038648**MEMORANDUM OF COSTS (WORKSHEET) (Continued)**1
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HARRIS & ZIDE

1445 HUNTINGTON DRIVE, SUITE 300
SOUTH PASADENA, CALIFORNIA 91030
(626) 799-8444

*ROBERT T. HARRIS
(1929 - 2003)
FLINT C. ZIDE
SUSAN STULLER FRANK
SHERIF FATHY
DEBT COLLECTION ATTORNEYS

JUNE 8, 2007

SHAWN OCONNOR
1819 POLK ST 220
SAN FRANCISCO CA 94109

RE: SHAWN OCONNOR / CITICORP CREDIT SERVICES, INC.

BALANCE: \$10774.48 including costs, interest and attorney fees.

DEAR, SHAWN OCONNOR

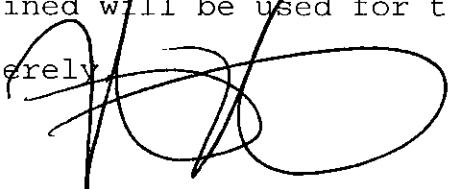
The above referenced account has been in our office for some time. The following information is requested to evaluate further action. Please return this notice with your response.

- () No further action necessary. Balance in full enclosed.
- () Need to discuss. Please call me at _____.
- () I will make payments of \$_____ per week/month starting _____. Acceptance to such payments in the future is subject to your approval in writing.

You can reach us from 8:00 to 9:00 Monday through Thursday on Friday from 8:00 to 5:00 on Saturday from 8:00 to 12:00 noon and on Sunday from 5:00 to 9:00. Please feel free to call us for further information regarding your account at (626) 799-8444.

This letter is an attempt to collect a debt. Any information obtained will be used for that purpose. We are debt collectors.

Sincerely,


FLINT C. ZIDE / SHERIF FATHY
ATTORNEY



404535 223

LAW OFFICES OF

Harris & Zide

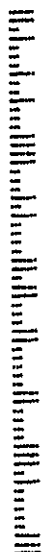
1445 HUNTINGTON DRIVE
SUITE 300
SOUTH PASADENA, CALIFORNIA 91030

ADDRESS CORRECTION REQUESTED

JUNE 8, 2007

SHAWN OCONNOR
1819 POLK ST 220
SAN FRANCISCO CA 94109

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(626) 799-8444 FAX (626) 799-8419

*ROBERT T. HARRIS
(1929 - 2003)
FLINT C. ZIDE
SHERIF FATHY
SCOTT G. GREENE
DEBT COLLECTION ATTORNEYS

JULY 10, 2007

SHAWN OCONNOR
1819 POLK ST 220
SAN FRANCISCO CA 94109

RE: CITICORP CREDIT SERVICES, INC. / SHAWN OCONNOR 404535
Balance: \$10774.48

DEAR, SHAWN OCONNOR

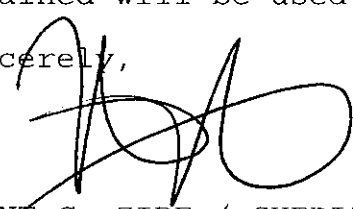
We have not heard from you in some time, nor have we reached a satisfactory resolution of the above account.

It is hoped that we will not be forced to take further action to collect this debt.

Please contact MARIZA MARTINEZ at (626) 799-8444.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. We are debt collectors.

Sincerely,



FLINT C. ZIDE / SHERIF FATHY
ATTORNEY AT LAW

404535 222



LAW OFFICES OF

Harris & Zide

1445 HUNTINGTON DRIVE
SUITE 300
SOUTH PASADENA, CALIFORNIA 91030

ADDRESS CORRECTION REQUESTED

JULY 10, 2007

SHAWN OCONNOR
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SAN FRANCISCO CA 94109

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